



**Mulama v Republic (Miscellaneous Criminal Case 99 of 2019)  
[2022] KEHC 11416 (KLR) (29 July 2022) (Ruling)**

Neutral citation: [2022] KEHC 11416 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KAKAMEGA  
MISCELLANEOUS CRIMINAL CASE 99 OF 2019**

**WM MUSYOKA, J**

**JULY 29, 2022**

**BETWEEN**

**MICHAEL MULAMA ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The applicant had been convicted in Kakamega CMCCRC No. 1550 of 2009, of robbery with violence, contrary to section 296(2) of the *Penal Code*, Cap 63, Laws of Kenya. He filed appeals in Kakamega HCCRA No. 242 of 2010 and Kisumu CACRA No. 43 of 2014, where the conviction and sentence were upheld. He subsequently benefitted from *Francis Karioko Muruatetu & another vs. Republic* [2017] eKLR (Maraga CJ & P, Mwilu DCJ &VP, Ojwang, Wanjala, Njoki and Lenaola SCJJ), where, in Kakamega HC Petition No. 31 of 2018, the death sentence was reduced to seventeen years in prison.
2. The instant application seeks to have the time he spent in remand custody to be reckoned in calculating the entire period he should spend in prison. He cites section 333 of the *Criminal Procedure Code*, Cap 75, Laws of Kenya.
3. As the death sentence has been reduced into a definite prison sentence, section 333 of the *Criminal Procedure Code* can be applied. To enable me make appropriate orders, I will need to have before me the trial court file, to confirm whether or not the trial court had applied that provision at sentencing. Consequently, I direct the Deputy Registrar to call for the trial court records, and have them placed together with this file. The matter shall be mentioned on a date that I shall allocate at the delivery of this ruling.
4. For the record, this is one of the matters that F. Amin J was handling. It was due for judgment on 25<sup>th</sup> May 2022. It was handed over to me on 16<sup>th</sup> June 2022.



**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 29<sup>TH</sup> DAY  
OF JULY 2022**

**WM MUSYOKA**

**JUDGE**

**Erick Zalo, Court Assistant.**

Michael Mulama alias Bahati, the applicant, in person.

Ms. Kagai, instructed by the Director of Public Prosecutions, for the respondent.

